

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-7818**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

THERESA CREPEAU,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Newport News. Rebecca Beach Smith,  
District Judge. (CR-94-2)

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Submitted: March 30, 2006

Decided: April 10, 2006

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Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Theresa Crepeau, Appellant Pro Se. Kevin Michael Comstock,  
Assistant United States Attorney, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Theresa Crepeau seeks to appeal the district court's order denying relief on her Fed. R. Civ. P. 60(b) motion, which the district court properly construed as a successive 28 U.S.C. § 2255 (2000) motion. An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of her constitutional claims is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Crepeau has not made the requisite showing.

Additionally, we construe Crepeau's notice of appeal and informal brief on appeal as an application to file a second or successive § 2255 motion. See Jones v. Braxton, 392 F.3d 683, 689-90 (4th Cir. 2004); United States v. Winestock, 340 F.3d 200, 208 (4th Cir. 2003). In order to obtain authorization to file a successive § 2255 motion, a prisoner must assert claims based on

either: (1) a new rule of constitutional law, previously unavailable, made retroactive by the Supreme Court to cases on collateral review; or (2) newly discovered evidence sufficient to establish that no reasonable fact finder would have found the movant guilty. 28 U.S.C. §§ 2244(b)(3)(C), 2255 (2000). Crepeau's claim does not satisfy either of these conditions.

For these reasons, we deny a certificate of appealability, decline to authorize Crepeau to file a successive § 2255 motion, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED